

Message Text

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PAGE 01 MONTRE 00878 021236Z

ACTION IO-14

INFO OCT-01 EUR-12 ISO-00 EB-08 L-03 EPAE-00 CAB-05

CIAE-00 COME-00 DODE-00 DOTE-00 INR-10 NSAE-00

FAA-00 AF-10 ARA-14 EA-12 NEA-10 OIC-02 PM-05

H-02 NSC-05 PA-02 SP-02 SS-15 ICA-20 OES-07

OMB-01 TRSE-00 NASA-02 DOE-15 SOE-02 /179 W

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FM AMCONSUL MONTREAL

TO SECSTATE WASHDC 422

UNCLAS MONTREAL 878

FROM USMISSION ICAO

E.O. 11652: NA

TAGS: PORG, EAIR, ICAO

SUBJECT: ICAO SUBCOMMITTEE ON NOISE

1. SUBCOMMITTEE OF ICAO LEGAL CTE ON PROBLEM OF LIABILITY FOR DAMAGE CAUSED BY NOISE AND SONIC BOOM MET IN MONTREAL FROM APRIL 18 - MAY 2, 1978, AND PREPARED A FIVE ARTICLE TEXT, A CHECK LIST OF PROBLEMS, AND A REPORT. THERE WAS NO SUBSTANTIAL AGREEMENT BETWEEN STATES BEYOND SUBJECT OF POTENTIAL LIABILITY OF AIRCRAFT OPERATORS FOR DAMAGE CAUSED BY NOISE OR SONIC BOOM DURING A PARTICULAR FLIGHT WITH A "FOREIGN" ELEMENT. SVERAL STATUS INCLUDING THE USG QUESTIONED WHETHER SUFFICIENT AGREEMENT COULD BE REACHED TO CONCLUDE A MULTILATERAL AGREEMENT ON THIS SUBJECT AND WHETHER THRERE WOULD BE JUSTIFICATION FOR PREPARING SUCH A DRAFT CONVENTION OF SO LIMITED A SCOPE.

2. FIVE ARTICLES OF PREPARED TEXT DEALT WITH FOLLOWING SUBJECTS: 1) CIVIL AIRCRAFT COVERED, 2) REQUISITE FOREIGN ELEMENT, 3) THE PERSON LIABLE, 4) TYPE OF LIABILITY AND DAMAGE CONTEMPLATED, AND 5) DEFENSES. KEY THIRD ARTICLE UNCLASSIFIED

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PAGE 02 MONTRE 00878 021236Z

DEALING WITH ISSUE OF LIABILITY OF AIRCRAFT OPERATORS FOR NOISE AND SONIC BOOM IS IN FORM OF THREE OPTIONAL TEXTS. ALL THREE OF THESE OPTIONS PROVIDE NO DEFENCE FOR DAMAGE CAUSED BY SONIC BOOM (OTHER THAN CONTRIBUTORY NEGLIGENCE) AND DIFFERING LEVELS OF DEFENSE FOR DAMAGE CAUSED BY NOISE. IN VOTE ON THESE OPTIONS (US NOT VOTING), OPTION PROVIDING NO DEFENSE FOR DAMAGE CAUSED BY EITHER

SONIC BOOM OR NOISE NARROWLY PREVAILED OVER AN OPTION PROVIDING NO DEFENSE FOR DAMAGE CAUSED BY SONIC BOOM AND NO LIABILITY IF FLYING IN CONFORMITY WITH EXISTING REGULATIONS FOR DAMAGE CAUSED BY NOISE (SUBJECTIVE FAULT LIABILITY). SEVEN VOTES FOR FIRST ALTERNATIVE, SIX FOR SECOND. THIRD ALTERNATIVE, WHICH WAS ONLY DRAFT WHICH CONFORMED WITH INDICATIVE VOTES ON PRINCIPLE TAKEN EARLIER IN SUBCOMMITTEE SESSION, RECEIVED ONLY TWO VOTES. THIS THIRD ALTERNATIVE PROVIDED FOR NO DEFENSE FOR SONIC BOOM AND STRICT LIABILITY WITH A DEFENSE OF "CONFORMITY WITH APPLICABLE REGULATIONS" FOR NOISE.

3. MAJORITY OF SUBCOMMITTEE TOOK VIEW THAT PROBLEMS ARISING FROM ACCUMULATION OF NOISE CAUSED BY MANY FLIGHTS ARE A MATTER TO BE LEFT TO NATIONAL LAW.
HARPER

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